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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,474

02/23/2005

Klaas Kooyker

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09/01/2010

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

PO BOX 3001

BRIARCLIFF MANOR, NY 10510-8001

EXAMINER

JENNISON, BRIAN W

ART UNIT

PAPER NUMBER

3742

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/525,474	Applicant(s) KOOYKER ET AL.	
	Examiner BRIAN JENNISON	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/16/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/30/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 stand rejected under 35 U.S.C. 102(b) as being anticipated by Andoh et al (US 5,568,765).

Andoh teaches:

Regarding Claim 1: Fig 1 shows a deep fat fryer 1, a frying pan 8, a heating element or magnetron 18 for heating the cooking oil in vessel 7. An oil temperature sensor 9, senses the temperature of the oil in oil vessel 7, the cooking medium. A controller is connected to sensor 9. **See Column 14 Line 50- Column 15 Line 5.** The controller and temperature sensor 9 monitor the temperature and send signal to turn the heater on if the temperature sensed is below a lower limit or turn the heater off if the temperature is above an upper limit. **See Column 21, Lines 50-65 and Fig 20.** Fig 12 shows the operation of the lowering and control system. The heating element is activated and a lowering signal based on T1 is send to activate the drive motor to lower the food. A second signal based on the steepness of a temperature rise over time S213 is sent for lowering food. *For generating a food lowering command signal commanding the lowering of food in response to the temperature signal from the temperature sensor circuit.* The first food lowering signal comes when the cover door is closed; this starts

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the process of lowering the food. Since a door is closed, the food is therefore loaded and ready to be immersed based on a signal when the temperature reaches a certain point. (The claim does not require the food to be immersed during this signal.) **See Column 6, Lines 25-55.** *Wherein the control system, while the heating element is active, is adapted for generating a first food lowering command signal for loading food in response to the temperature signal representing a first predetermined sensed temperature.* Since the phrase adapted for is used the claim only requires the structure of the prior art being capable of performing the act of sending a first and second signal. The second lowering signal is in response to the temperature control mechanism, the lifting means lowers the food when a signal is received from the temperature controller and immerses the food into the oil. **See Column 6, Lines 25-55** Fig 19 shows the upper limit of the sensed temperature which would be reached if no food is present.

Regarding Claim 2: A lowering signal is generated based on a first temperature signal at S205.

Regarding Claims 3-6: A boost condition or enhanced heating power at step S210 may be set by a user through controller 20. The controller 20 is also used for setting an upper temperature and for ending the enhanced heating condition. **See Column 16, Lines 45-64.**

Regarding Claim 7: The door 33 closing after the vessel has been lowered is a human perceptible signal in response to a food lowering signal.

Regarding Claim 8: A lifting mechanism 16 is included to lift and lower the oil vessel. Microswitch 14 generates a signal which is sent to the control panel 20 which generates a human perceptible signal for the position of the oil vessel 7.

Response to Arguments

1. Applicant's arguments filed 6/16/2010 have been fully considered but they are not persuasive.

In regards to applicant's arguments on pages 7-8 of the reply referencing the lowering signal, Fig 12 at step S204 clearly states the drive motor is activated to lower the food based on a temperature. Since this process is automatic, a lowering signal is sent. The majority of the claim is merely functional language. The required structure to perform these functions exists in the prior art such as the temperature monitoring and the signal to raise or lower the basket based on temperature. The first food lowering signal comes when the cover door is closed; this starts the process of lowering the food. Since a door is closed, the food is therefore loaded and ready to be immersed based on a signal when the temperature reaches a certain point. (The claim does not require the food to be immersed during this signal.) Since the phrase adapted for is used the claim only requires the structure of the prior art being capable of performing the act of sending a

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first and second signal. The second lowering signal is in response to the temperature control mechanism, the lifting means lowers the food when a signal is received from the temperature controller and immerses the food into the oil. The boost condition as in claim 3 is met by the prior art since a user may set controller 20 to a higher temperature.

2. In response to applicant's arguments a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN JENNISON whose telephone number is (571)270-5930. The examiner can normally be reached on M-Th 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TU HOANG can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN JENNISON/
Examiner, Art Unit 3742

8/26/2010
/TU B HOANG/
Supervisory Patent Examiner, Art Unit 3742